UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,065	04/14/2004	A. Julie Kadashevich	260-078	6067

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LOTUS AND RATIONAL SOFTWARE
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EXAMINER
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ART UNIT	PAPER NUMBER
2195	

NOTIFICATION DATE	DELIVERY MODE
05/29/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dave@davedagg.com

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 February 2008</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,2,5-11,13-15 and 20-23</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,2,5-11,13-15,20-23</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>04/14/2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail. Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1, 2, 5-11, 13-15, 20-23 are pending.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention. .

3.   Claims 1, 2, 5-11, 13-15, 20-23 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

      a.   The following claim language is not clearly understood:

            i.   Claim 1, line 1 it is unclear what is meant by "software agent" (i.e. a

process or program or software on a computer?).

            ii.   Claims 13 and 20 has similar deficiency as claim 1 above.

            iii.   Claim 20, line 10 recite "producing a like plurality of identified threads" it

is unclear what is meant by that (i.e. creating "copy").

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 1, 2, 5-11 and 13-15 are rejected under 35 U.S.C. 103(a) being unpatentable over

Ding et al(Ding) US Patent No. 6691067.

6.   As per claims 1, Ding teaches the invention substantially as claimed including a method

for monitoring system processor usage time of a software agent operating in a computer system,

said method comprising the steps of (col 6, lines 14-18; lines 20-27):

        identifying said agent by associating an agent identifier therewith (col 2, lines 16-20);

        initiating, an agent lifetime timer for measuring an operating interval of said agent(col 13,

lines 31-39);

        determining said operating interval using said lifetime timer by identifying a start time

and a completion time of said agent and computing an elapsed time as the difference between

said starting time and said completion time for said agent (col 13, lines 21-25; lines 63-67

through col 14, line1); and

        storing said operating interval and said agent identifier in a computer-readable

memory(col 9, lines 19-30).

        Ding does not specifically disclose initiating, responsive to said identifying of said agent.

        It would have been obvious to a person of ordinary skill in art at the time of invention

was made to initiate the monitoring system for a process using the process id after identifying the

agent/process to able to track the resource usage or any kind of process activity in the system.

7.   As per claim 2, Ding teaches the said computer-readable memory includes a hash table

(col 9, lines 31-43).

8.   As per claim 5, Ding teaches that associating said operating interval and said agent

identifier with other operating intervals and agent identifiers associated with a plurality of other

software agents operating in said system (col 7, lines 21-24; col 13, lines 18-39).

9.   As per claim 6, Ding teaches that filtering said agent and said plurality of other agents

according to predefined filtering criteria to produce a filtered set (col 10, lines 64-67 through col

11, lines 1-6).

10.   As per claim 7, Ding teaches the rank ordering said filtered set (col 10, lines 55-57).

11.   As per claim 8, Ding teaches that making said filtered set available to a display device

(col 7, lines 37-43; col 10, lines 64-67 through col 11, lines 1-6).

12.   As per claim 9, Ding teaches that determining a corrective measure for at least one

member of said filtered set (col 11, lines 1-10; lines 54-67 through col 12, lines 1-4).

13.   As per claim 10, Ding teaches that displaying said corrective measure on a display device

(col 11, lines 26-31; lines 54-67 through col 12, lines 1-4).

14.   As per claim 11, Ding teaches that corrective measure is implemented by said system (col

21, lines 53-67).

15.   As per claim 13, Ding teaches the invention substantially as claimed including a method

for monitoring system processor time usage of a software agent created by a thread associated

therewith, said thread having a thread lifetime and said agent having an agent lifetime, said

method comprising the steps of(col 6, lines 14-18; lines 20-27):

        associating an agent identifier with said agent (col 2, lines 16-20);

        initiating, an agent lifetime timer for monitoring said agent lifetime (col 13, lines 31-39);

        determining system processor resource allocations associated with said agent, by

identifying a start time and a completion time of said agent and computing said agent lifetime as

the difference between said starting time and said completion time for said agent, said resource

allocations defining a footprint for said agent comprising(col 13, lines 31-39):

        an amount of system processor resources utilized by said thread during said thread

lifetime (col 13, lines 31-39); and

        an amount of system processor resources utilized by said agent during said agent lifetime

(col 13, lines 31-39);

        associating said footprint with said agent identifier (col 10, lines 33-46);

        storing said footprint and said agent identifier in a computer-readable memory(col 9,

lines 31-43);

        comparing said footprint of said agent to a plurality of footprints associated with a like

plurality of other software agents(col 10, lines 53-17;col 7, lines 21-24);

        ranking said footprint of said agent against said plurality of footprints(col 10, lines 55-

57); and

displaying those of said agent footprint and said plurality of footprints exceeding a predefined threshold (col 7, lines 37-49).

Ding does not specifically disclose initiating, responsive to said associating said agent identifier with said agent.

It would have been obvious to a person of ordinary skill in art at the time of invention was made to initiate the monitoring system for a process using the process id after identifying the agent/process to able to track the resource usage or any kind of process activity in the system.

16.   As per claim 14, Ding teaches that establishing a system processor resources configuration threshold defining a maximum amount of system processor resources to be utilized by each of said software agent and said plurality of other software agents (col 6, lines 20-27; col 7, lines 39-49).

17.   As per claim 15, Ding teaches that running a collection probe to determine if a total amount of consumed system processor resources exceeds said configuration threshold(col 7, lines 39-42); and

performing said initiating step when said total amount of consumed system processor resources exceeds said configuration threshold (col 8, lines 1-26).

18.   Claims 20-23 are rejected under 35 U.S.C. 103(a) being unpatentable over Ding et al(Ding) US Patent No. 6691067, in view of Freeman(Freeman) US Patent No. 6330588.

19.   As per claim 20, Ding teaches the invention substantially as claimed including a method

for tracking system processor time of a target agent operatively associated with a hypertext

transport protocol process operating on a computer system and running a plurality of threads,

said target agent further creating at least one of said plurality of threads(col 6, lines 14-18; lines

20-27; col 8, lines 17-26), said method comprising:

         creating a computer-readable hash table in a memory operatively associated with said

computer system (col 9, lines 31-43);

         initiating an agent tracking function in machine-executable code in said computer

system(col 9, lines 24-26);

         identifying members of said plurality of threads by associating a thread identifier with

each member of said plurality of threads producing a like plurality of identified threads(col 10,

lines 39-42);

         identifying those of said plurality of identified threads created by said target agent to

produce an identified thread set(col 10, lines 39-45);

         determining an amount of said system processor time utilized by said identified thread

set(col 13, lines 31-39); and

         storing said system processor time for said identified thread set in said hash table, thereby

tracking said system processor time of said target agent(col 9, lines 31-43).

         Ding does not specifically disclose identifying those of said plurality of identified threads

created by said target agent to produce an identified thread set(col 10, lines 39-45).

         It would have been obvious to a person of ordinary skill in art at the time of invention

was made to identify the threads created by the software agent or application or process using the

thread ID information which contains the information about the thread including the thread owner.

Ding does not disclose specifically target agent operatively associated with a hypertext transport protocol process operating on a computer system.

However, Freeman teaches that target agent operatively associated with a hypertext transport protocol process operating on a computer system and (col 2, lines 5-8; col 5, lines 51-62).

20.   As per claim 20, Ding teaches computing statistics for said identified thread set(col 10, lines 64-67 through col 11, lines 1-6).

21.   As per claim 21, Ding teaches rank ordering those of said plurality of identified threads having said target agent operating therewith (col 10, lines 55-57).

22.   As per claim 22, Ding teaches providing said identified set to a display device (col 7, lines 37-43; col 10, lines 64-67 through col 11, lines 1-6).

Response to Arguments

23.   Applicant's argument filed on 02/20/2008 has been fully considered but they are not persuasive.

24.   In the remarks applicant argues that:

(1) Ding does not teach monitoring CPU usage time of a software agent.

(2) Ding does not teach monitoring resource usage of a software agent by determining an operating interval using by identifying a start time and a completion time.

25.   Examiner respectfully disagree to applicant:

i.   as to point (1), applicant supports his argument with mentioning that Ding teaches a monitoring agent for monitoring the process on a system but does not monitor the "software agent". The claim language does not specifically disclose what is a "software agent" examiner interprets a software agent as being a process or software or application executing on a system. Ding teaches a monitoring agent which monitors all the applications and processes running on a system for CPU usage, memory usage and all type of resource usage by the software or process running in the system(col 6, lines 14-18; lines 20-27).

ii.   as to point (2), applicant supports his argument mentioning that Ding does not teach monitoring a software agent during a specific interval of agent start time or end time. Examiner interprets software agent being a software or application or process. Ding teaches sampling software activity or monitoring software in some interval which can include "a process lifetime"(col 13, lines 21-25; lines 63-67 through col 14, line1). A process lifetime is the time between the start and end of a process running or executing on a system and sampling within that period means monitoring the process or software in an interval from the process start time to end time.

Conclusion

26.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

27.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

28.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Abdullah-Al Kawsar whose telephone number is 571-270-3169.

The examiner can normally be reached on 7:30am to 5:00pm, EST.

29.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng Ai T. An can be reached on 571-272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

30.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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